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October 25, 2016

VIA ECF and FACSIMILE (212) 805-7986

The Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

Re: Shabazz v. Matthew Tivy, Docket No. 16-cv-02902 (PGG)

Dear Judge Gardephe,

We represent the Plaintiffs, Rahman Shabazz and his son, infant Plaintiff, P.H., in the above-referenced matter, and make this letter motion to ask the Court to remand this action to New York State Supreme Court, Bronx County.

Plaintiffs' prior counsel filed the Complaint on April 20, 2016. Defendant has not served an Answer. Both Plaintiffs and Defendant are citizens of New York and no diversity jurisdiction exists. The Complaint does allege a federal question, specifically, 18 U.S.C. 2422, Criminal Coercion and Enticement to Sexual Activity. However, we have found no basis to proceed under that statute in a civil cause of action. As there is no diversity between the parties and no federal question, we ask that the Court remand this case to New York State Supreme Court, Bronx County. Durov v General Motors Corp., 2008 WL 1787736 (W.D.N.Y.) (the court granted plaintiff's motion for remand to state court where there was no diversity of citizenship). Greenwood Group, LLC v. Brooklands, Inc., 2016 WL 42240089 W.D.N.Y.) (remand to state court upheld for lack of subject matter jurisdiction).

For the foregoing reasons, Plaintiffs respectfully ask the Court to adjourn the conference scheduled for October 27, 2016 and to remand this action to New York State Supreme Court, Bronx County.

Sincerely,

Tracey L. Brown